

Economic Affairs Interim Committee

Workers' Compensation Overview

The 3-Way System

November 8, 2017



The 3-Way System

Montana's Workers' Compensation Act - in place for over 100 years

- European countries initiated Workers' Compensation laws nearly a quarter of a century before Montana
- Montana was the 27th state in the Union to adopt a Worker's Compensation Act
- Since the passage of the Montana Workers' Compensation Act in 1915- there has been a 3-Way system
- That means 3 options for employers to purchase their Workers' Compensation Coverage.



3-Way System

Plan No. 1

Self Insured Employer

Plan No. 2

Private Insurance Company

Plan No. 3

Montana State Fund

3-Way System - Plan No. 1

An employer may elect to be self-insured upon proving to the MT Department of Labor and the MT Self-Insurers Guaranty Fund the employer's financial solvency and ability to pay benefits.

A self-insured employer may be:

- An Individual Self-insured Business

- Private Self-insured Group

- Public Self-insured Group

Montana Self-Insurers Guaranty Fund, assumes the obligation of a private self-insurer if determined to be insolvent.



3-Way System - Plan No. 2

Plan No. 2 are private insurance companies that are authorized to transact Workers' Compensation Insurance in Montana.

- Must obtain a Certificate of Authority from the Commissioner of Securities and Insurance (CSI)
- Financial Condition is monitored regularly
- Examinations- Financial and Market Conduct
- Rates
 - NCCI -files loss costs – insurers file rates
- Guaranty Fund



3-Way System - Plan No.3

Montana State Fund is established by law to provide an option for employers to purchase Workers' Compensation Insurance.

- Must have a Certificate of Authority from the CSI
- Financial Condition is monitored regularly
- Examinations- Financial and Market Conduct
- Rates
 - NCCI -files loss costs – insurers file rates
- Serves as the Guaranteed Market- will not refuse coverage for any employer –unless a debt is owed and remains unpaid.
- Is not a member of the Guaranty Fund



Captive Insurer

Captives are created and owned, by one or more companies that are not insurance companies, to insure the risk of its owner(s).

A form of self-insurance, and typically established to meet the risk-management needs of the owner(s).

- Subject to oversight by the CSI
- May re-insure Workers' Compensation – but not write Workers' Compensation on a direct basis

Captive Reciprocal Insurer

Persons known as “Subscribers”, have reciprocal agreements of indemnity, with an attorney-in-fact common to all persons

- Considered to be a Plan No. 2 insurer when providing Workers’ Compensation Insurance
- Subject to oversight by the CSI

Oversight and Regulation

Department of Labor and Industry (DOL)

For Plan No. 1

Approves and regulates self-insured employers

For Plan No. 2

Retains a Security Deposit

For Plans No. 1, 2 and 3

Provides:

Claims related services

Claims Assistance Unit

Dispute Resolution

Independent Medical Reviews

Petition process for re-opening of medical benefits

Medical Fee Schedules & Treatment and Utilization Guidelines



Oversight and Regulation

DOL Workers' Compensation Administration

- Independent Contractor Exemption Certificates
- Construction Contractor Registration
- Uninsured Employer's Fund
- Subsequent Injury Fund
- Professional Employer Organizations
- Safety and Health
- Claims Examiner Certification
- Extra-territorial Agreements

Exclusive Remedy

Exclusive Remedy – Montana Constitution, Article II, Section 16.

Employer:

If Workers' Compensation Coverage is provided by the employer, the employer is not liable for injury incurred in employment.

Employee:

Receives compensation as provided in the Workers' Compensation Act, and does not have to prove the fault of the employer.



Workers' Compensation Market

Workers' Compensation Premium:
Approximately \$58 Billion₁

Montana - Plan No. 2 and 3:
\$287,361,049₂
Plan No. 2 39%
Plan No. 3 61%

Footnotes...

1. http://www.naic.org/documents/web_market_share_170301_2016_property_lob.pdf (Page 4)
2. National Association of Insurance Commissioners – Montana Direct Written Premium



Workers' Compensation Claims

- There were 25,006 claims in FY16 for all 3 plans
 - State Fund – 39%
 - Self-Insured – 24%
 - Private Insurers – 37%
- Medical Benefits -67%
- Indemnity (wage loss) benefit- 33%

Types of Benefits

All insurers are required by law to provide the same benefits under the Workers' Compensation Act:

- Wage Loss
- Medical Benefits
- Rehabilitation Benefits
- Death Benefits

Questions?